

COPY

LICENSE AGREEMENT

between and among the
Maine Department of Transportation
and the
Maine Department of Inland Fisheries and Wildlife
and the
Town of Raymond

This License Agreement is executed this *31st* day of *MARCH*, 2000 between and among the **Maine Department of Transportation ("DOT")**, the **Maine Department of Inland Fisheries and Wildlife ("IFW")** and the **Town of Raymond ("Town")**.

WHEREAS, the State of Maine, acting by and through its Department of Transportation, as successor to the Maine State Highway Commission, owns property in the Town of Raymond, County of Cumberland, and State of Maine, as described in a Layout and Notice of Taking dated June 27, 1956, recorded July 2, 1956, in the Cumberland County Registry of Deeds, Book 2299, Page 11, all as shown on a plan entitled, "Maine State Highway Commission, Right of Way Map, State Highway '14', Raymond, Cumberland County, Federal Aid Project No. F-014-1(5)" dated January, 1956 (the "Premises"); and

WHEREAS, portions of the Premises situated on either side of U.S. Route 302 and outside of the traveled way as described in said Layout and Notice of Taking, more particularly referenced as Item No. 23 on Sheet 4 of the above referenced highway plans and shown on Exhibit A, attached hereto (the "DOT Parcel") are at times used by the public for parking to gain access to Sebago Lake for fishing, boating, swimming and other recreational purposes; and

WHEREAS, IFW owns the property situated between the DOT Parcel and Sebago Lake (the "IFW Parcel") by virtue of a deed from St. Joseph's College dated _____, recorded _____ in the Cumberland County Registry of Deeds, Book _____, Page _____; a copy of which is attached hereto as Exhibit B; and

WHEREAS, the IFW Parcel contains a boat launch and a beach area that the public has used for many years for access to Sebago Lake for the purpose of fishing, boating, swimming and other recreational purposes; and

WHEREAS, IFW desires to upgrade the existing boat launch ramp on the IFW Parcel and to develop and construct parking facilities and other improvements on the DOT Parcel to assure continued access to the recreational opportunities on Sebago Lake and ensure the safety of the public using the area; and

WHEREAS, after IFW has completed development and construction of the boat launch area and the parking facilities, the Town of Raymond has agreed to accept permanent responsibility for ongoing management and operation of the boat launch, the beach area and the parking facilities on the DOT Parcel and the IFW Parcel;

NOW THEREFORE, DOT, IFW and the Town, in consideration of their mutual agreements contained herein and for other consideration received, hereby agree as follows:

PART I. CONSTRUCTION LICENSE

Department of Transportation and Department of Inland Fisheries and Wildlife

1. DOT hereby grants to IFW a license to enter upon that portion of the DOT Parcel located on the southwest side of U.S. Route 302, as shown on said Exhibit A, for the purpose of constructing parking areas and other improvements and for the purpose of access to the IFW parcel for the construction of the boat launch and other improvements, all as shown on Exhibit C, attached hereto.

2. IFW hereby agrees that all work and activities performed pursuant to or under authority of this License shall be done in accordance with all applicable federal, state and local laws and regulations.

3. IFW, its employees, contractors and agents shall perform all work on DOT property for the construction of said parking facility and improvements only after providing notice and a copy of all work plans for review and approval by DOT; provided, however, that such approval shall not be unreasonably withheld.

4. DOT may enter the DOT Parcel to inspect the construction work at any time.

5. IFW will pay all costs for the development and construction of the parking areas and other improvements.

6. DOT shall erect at appropriate locations on U.S. Route 302 traffic signs, lights and crosswalks for pedestrian use, and limit speed on U.S. Route 302 to safeguard motorists and pedestrians in the area that is subject to this License. DOT will pay all costs associated with the installation of such traffic safety devices.

7. The term of this License shall be for thirty (30) years, from _____, 2000, to _____, 2030. This License may be renewed for an additional ten (10) year term upon the mutual agreement of the parties as to the terms and conditions of such renewal. Thereafter, the License may continue to be renewed from year to year.

8. If, in the determination of DOT, a breach of this License occurs, DOT shall give written notice thereof to IFW, and IFW will have sixty (60) days to cure said breach to the satisfaction of DOT. In the event of any circumstances related to the construction which DOT deems to be an emergency to which IFW is unwilling or unable to adequately respond, then DOT shall have the right but not the obligation to cure such breach or emergency without giving notice of its actions to IFW and IFW shall pay to DOT all reasonable costs and expenses, including attorney's fees, related thereto (including without limitation any fees and costs related to the collection of amounts owed pursuant to this provision).

9. This license shall be revocable by DOT during its term, or any renewal thereof, for any breach hereof which remains uncured after sixty (60) days written notice from DOT of said breach. Notice of revocation shall be given to IFW in writing.

10. IFW agrees to defend and hold harmless DOT, its agents, attorneys, employees or independent contractors against any and all claims or actions of any nature whatsoever arising the construction of the parking areas or other improvements on the DOT Parcel.

11. This License shall not be assignable or transferable by IFW without the prior written consent of DOT, which determination shall be in MDOT's sole discretion.

12. Notwithstanding the provisions of Paragraph 9, above, IFW, for itself and its successors, agrees that any and all rights conveyed by this License may be terminated and this License revoked by DOT at any time if DOT in its sole discretion determines that the DOT Parcel is needed for transportation purposes. DOT acknowledges IFW's investment in the improvements to be made to the DOT Parcel, and agrees that in the event MDOT's transportation needs require recovery of all or part of the DOT Parcel within the first thirty (30) years of this Agreement, DOT will negotiate, in good faith, to minimize the loss of public recreational opportunities created by IFW's investment.

13. In the event this License expires or terminates, IFW may remove improvements made by IFW to the DOT Parcel. Those improvements not removed by IFW shall become the property of DOT.

PART II. MANAGEMENT AND MAINTENANCE LICENSE

Department of Transportation and the Town of Raymond

1. DOT hereby grants to the Town of Raymond a license to enter upon the DOT Parcel, for the purpose of operating, managing and maintaining the Boat Launch Access Site as depicted on Exhibit C, attached hereto.

2. The Town hereby agrees that all activities performed pursuant to or under authority of this License shall be done in accordance with all applicable federal, state and local laws and regulations.

3. DOT has the right to enter the DOT Parcel for inspection purposes at any time.

4. The Town hereby agrees to provide routine maintenance on the DOT Parcel for the term of this License, including but not limited to repairs, trash removal, clean-up and removal of winter sand, and installation and maintenance of portable toilets. All management and maintenance costs will be paid by the Town.

5. The term of this License shall be for thirty (30) years, from _____, 2000, to _____, 2030. This License may be renewed for an additional ten (10) year term upon the mutual agreement of the parties as to the other terms and conditions of such renewal. Thereafter, the License may be continued to be renewed from year to year.

6. In the event of any breach of this License which remains uncured for thirty (30) days after written notice thereof, or in the event of any circumstances related to the construction which DOT deems to be an emergency to which the Town is unwilling or unable to adequately respond, then DOT shall have the right but not the obligation to cure such breach or emergency without giving notice of its actions to the Town, and the Town shall pay to DOT all reasonable costs and expenses, including attorney's fees, related thereto (including without limitation any fees and costs related to the collection of amounts owed pursuant to this provision).

7. This License shall be revocable by DOT during its term, or any renewal thereof, for any breach hereof which remains uncured after thirty (30) days written notice from DOT of said breach. Notice of revocation shall be given to the Town in writing.

8. The Town agrees to defend, indemnify and hold harmless DOT, its agents, attorneys, employees or independent contractors from any and all claims, actions or liabilities of any nature whatsoever arising out of losses and damages resulting from the negligent or willful acts of the Town, its officers, agents, employees or independent contractors, in connection with the Town's operating, management or maintenance activities on the DOT parcel. Nothing herein shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to DOT or the Town, their officers, agents or employees, under the Maine Tort Claims Act or any other privileges and/or immunities provided by law. The Town's obligations under this paragraph are limited to the monetary limits and substantive areas of liability under the Maine Tort Claims Act or any monetary limits and substantive areas exceeding those limits or areas where the Town is insured.

9. The Town shall obtain premises liability insurance to cover the use of the DOT Parcel with limits of no less than \$400,000 per occurrence, naming the State of Maine Department of Transportation as an additional insured. Such insurance **MUST** provide that the State of Maine be notified in the event the policy is canceled. The Town shall furnish the DOT with satisfactory proof of such insurance prior to assuming responsibility for the operation and maintenance of the DOT parcel. Said proof of insurance and any cancellation notices shall be mailed to:

David Fitts, Director
Risk Management Division
Dept. of Administrative and Financial Services
85 State House Station
Augusta, ME 04333-0085

With a copy to:

Toni L. Kemmerle, Esq.
Legal Services
Dept. of Transportation
16 State House Station
Augusta, ME 04333-0016

10. This license shall not be assignable or transferable by the Town without the prior written consent of DOT, which determination shall be in DOT's sole discretion.

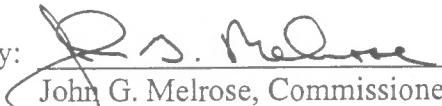
11. Notwithstanding the provisions of Paragraph 7, above, the Town, for itself and its successors, agrees that any and all rights conveyed by this License may be terminated and this License revoked by DOT at any time if DOT in its sole discretion determines that the DOT Parcel is needed for transportation purposes. DOT acknowledges the Town's investment in the improvements to be made to the DOT Parcel, and agrees that in the event MDOT's transportation needs require recovery of all or part of the DOT Parcel within the first thirty (30) years of this Agreement, DOT will negotiate, in good faith, to minimize the loss of public recreational opportunities created by the Town's investment.

12. The parties acknowledge that at some time in the future the Town may undertake to develop parking facilities on the property located on the northeast side of U.S. Route 302 directly across from the Boat Launch Access Site, which property would include a portion of the DOT Parcel as shown on Exhibit C. In that event, the Town shall submit plans to DOT Division Engineers for review and approval prior to any construction. Contingent upon DOT's approval of said plans, DOT agrees to grant a License to the Town for the use of its property under substantially the same terms and conditions as set forth in this Management and Maintenance License.

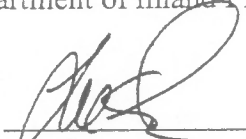
13. The Town represents and warrants that this agreement has been approved at a special town meeting of the Town of Raymond and that it is a valid and fully binding obligation upon the Town. Further, the Town represents and warrants that it has full authority to enter into this agreement, including without limitation its indemnification obligations under Paragraph II.8., above, and that the approval of the Cumberland County Commissioners is not required or, if required, it has been obtained.

SEEN AND AGREED TO BY:


STATE OF MAINE
Department of Transportation

By: 
John G. Melrose, Commissioner
Duly Authorized

STATE OF MAINE
Department of Inland Fisheries & Wildlife

By: 
Lee E. Perry, Commissioner
Duly Authorized

TOWN OF RAYMOND

By: 
Nathan Poore, Town Manager
Duly Authorized

H/LEGALSHARED/AHUGHES/RAYMOND/LICENSEAGREEMENT